

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

WRIT PETITION NO. 3019 OF 2006

M/s. J.L. Morrision India Ltd.

... Petitioner.

V/s.

Dy. Commissioner of Labour.

... Respondent.

...

Mr. Chakrapani Misra and Mr. Aditya Khanna i/b. Khaitan
& Co. for the Petitioner.

Mr. K.R. Belosay for Respondent Nos.1 to 3.

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CORAM : DR. D.Y. CHANDRACHUD,J.

11th DECEMBER, 2006.

P.C. :

1. The Appellate Authority under the Payment of Gratuity Act, 1972 has dismissed an application for condonation of the delay in filing an appeal.

2. Section 7(7) of the Payment of Gratuity Act, 1972 prescribes the period of limitation for filing an appeal against the order of the Controlling Authority and the extent to which delay can be condoned. Section 7(7) provides as follows :-

" 7(7) any person aggrieved by an order under sub-section (4) may, within sixty days from the date of the receipt of the order, prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf:

Provided that the appropriate Government or the appellate authority, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days."

3. Section 7(7) prescribes firstly a period of 60 days to file an appeal from the date of the receipt of the order of the Controlling Authority. In the event that the Appellant satisfies the Appellate Authority that he was prevented by sufficient cause from preferring the appeal within a period of 60 days, there is a power to extend the said period by a further period of 60 days. In other words, the total period during which an Appeal has to be filed cannot in any circumstances exceed 120 days. The Appellate Authority which is a creature of the statute has no power to condone the delay beyond 60 days. This provision is made in the statute enacted with a view to securing the expeditious payment of dues on account of gratuity and must therefore receive a purposive interpretation. The legislature has prescribed the period of limitation for filing an Appeal and has also prescribed the extent to which the delay can be condoned. Neither the Appellate Authority nor this Court in the exercise of jurisdiction under Article 226 can condone the delay beyond what is envisaged by the legislature.

4. In so far as the facts are concerned, the order of the Appellate Authority was passed on 30th December 2004. The case of the Petitioner is that the order was received on 14th July 2005. However, the admitted position is that after the order of the Controlling Authority, a notice for the payment of gratuity in Form 'B' was tendered on 5th January 2005 under Rule 17 of the Payment of Gratuity (Maharashtra) Rules, 1972 to the Petitioner. Since the Petitioner did not pay the gratuity as directed, the recovery certificate was issued on 24th May 2005. The appeal was not filed within a period of 60 days or even after 120 days from the date of the recovery certificate. The appeal was lodged together with an application for condonation of delay on 31st October 2005, which was 160 days after the recovery certificate.

5. In these circumstances, the Appellate Authority was correct in declining to condone the delay. For the sake of completeness, it has also to be recorded that no ground for condonation has been made out in the Writ Petition. There is not even a reference to the basis for condonation. There is no merit in the Petition. The Petition is accordingly dismissed.
